

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA

PLAINTIFF

VS. CASE NO. 05-CV-329-GSF(SAJ)

TYSON FOODS, INC, ET AL

DEFENDANTS

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DEPOSITION OF

RANDY YOUNG

Taken Thursday, October 2, 2008

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A P P E A R A N C E:

ON BEHALF OF THE PLAINTIFF:

RICHARD T. GARREN, ESQUIRE
RIGGS, ABNEY, NEAL, TURPEN, ORBISON
& LEWIS, P.C.
502 West Sixth Street
Tulsa, Oklahoma 74119-1010

LOUIS W. BULLOCK, ESQUIRE
BULLOCK, BULLOCK & BLAKEMORE
110 West Seventh Street, Suite 707
Tulsa, Oklahoma 74119

ON BEHALF OF THE DEFENDANTS:

TODD P. WALKER, ESQUIRE
FAEGRE AND BENSON
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80203

Exhibit 14

1 contamination.

2 Do you agree with that one?

3 MR. GEORGE: Same objection?

4 WITNESS: Again, that's why we need
5 the --

6 BY MR. GARREN:

7 Q That's why you were doing this stuff, wasn't
8 it?

9 A That's why we need to be writing nutrient
10 management plans -- to make sure that didn't happen.

11 Q And following best management practices would
12 be another area of attempt to protect the water
13 quality, would it not?

14 A Sure.

15 Q And then it says, "Improper land application of
16 manure with respect to runoff and surface water
17 sources."

18 That kind of falls into the same area we just
19 discussed with --

20 A Yes. Once you have a plan, you need to follow
21 it and the plan needs to have appropriate safeguards
22 like buffers and things like that.

23 Q Sitting here today, does Arkansas have
24 enforcement rights or penalties for those who do not
25 follow management plans?

1 A Yes.

2 Q And when did those enforcement provisions first
3 become enacted.

4 A Passed the law in 2003. We had a law that
5 provided a grace period for getting all the plans
6 written and it included the ability to have a
7 protect rate in case we couldn't get all the plans
8 written and those loop holes if you will were closed
9 January 1st of '07.

10 Q So, effective in January 1, '07 really was the
11 first time that Arkansas had the ability to bring
12 any kind of enforcement action for those not
13 following nutrient management plans. Is that a fair
14 statement?

15 MR. GEORGE: Object to the form.

16 WITNESS: Yes.

17 BY MR. GARREN:

18 Q Okay. So, prior to that did Arkansas -- let me
19 ask you this.

20 Was your agency the agency that has the
21 authority to bring enforcement action for violations
22 of nutrient management plans?

23 A Yes.

24 Q Prior to the January 2007 date, did your agency
25 have enforcement entitlements or regulations for

1 mishandling or misusing poultry waste?

2 A No.

3 Q Okay. The list of five items that I read to
4 you individually and asked you about -- can you
5 think if there are any other areas that would in
6 your opinion constitute a major possible avenue of
7 contamination --

8 A Yes.

9 Q -- of non-point source pollution? What would
10 those be?

11 A You know, disfunctional septic systems.
12 Erosion from unpaved county road areas.

13 Q Okay.

14 A Erosion from construction sites.

15 Q All right.

16 A Runoff from urban areas where people are over
17 fertilizing their lawns and things like that.

18 Q People that fertilize their lawns have to buy
19 the fertilizer, do they not?

20 MR. GEORGE: Object to the form.

21 WITNESS: Yes.

22 BY MR. GARREN:

23 Q They don't get it out of a free poultry barn
24 that's sitting on a farm, but they're actually going
25 out and making a purchase. Do you agree?

1 Q Okay. Are nutrient management plans designed
2 to preclude runoff of nutrients?

3 A They're designed to reduce the risk for runoff.

4 Q Okay. So, given that there's some risk, it's
5 likely that in all cases some runoff is going to
6 occur. Would you agree?

7 MR. GEORGE: Object to the form.

8 WITNESS: It's possible. Depends on
9 mother nature.

10 BY MR. GARREN:

11 Q And if you go and take some water quality
12 samples and see high levels of phosphorous, there
13 seems to be some correlation with regard to that
14 which has runoff or leached from the soil. Would
15 you agree?

16 MR. GEORGE: Object to the form.

17 WITNESS: That's one of the factors.
18 There are any number of factors that
19 could --

20 BY MR. GARREN:

21 Q Assuming that there is no waste water affluent
22 that's being dumped into that particular stream,
23 that stream having high phosphorous levels would
24 indicate some correlation with surface water runoff
25 into it, would it not?